IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4415 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SURESHBHAI VIRJIBHAI PATEL

Versus

COMMISSIONER OF POLICE

Appearance:

MR HM PRACHCHHAK for Petitioner

MR SJ DAVE AGP for respondent No.2-State.

CORAM : MR.JUSTICE R.P.DHOLAKIA

Date of decision: 21/06/2000

ORAL JUDGEMENT

1. The Commissioner of Police, Rajkot passed an order on January 1,2000, in exercise of powers under Section 3 (2) of the Gujarat Prevention of Anti-Social Activities Act, 1985 ("PASA Act " for short), detaining the petitioner- Sureshbhai Virjibhai Patel under the

provisions of the said Act.

2. The detaining authority took into consideration two offences registered against the detenu. The detaining authority considered the activities of the detenu to be detrimental to public order. The detaining authority, therefore, observed that detention of the detenu under the PASA Act is the only efficacious remedy that can be restored to in order to immediately prevent the petitioner from pursuing his illegal activities.

3 The petitioner/detenu challenges the order of detention on various counts. However, Mr. H.M.Prachchhak, learned advocate for the petitioner, has restricted his arguments to the point that page Nos. 85, 87, 277, 439, 478, 479 of the documents supplied by the detaining authority to the detenu are illegible and page Nos.11,12,13,15, 17, 235,181, 265, 645, 713, 715, 717, 719, 705, 693 and 695 are in English language and page 213 is the F.I.R. which is Marathi language. Learned counsel for the petitioner submitted that the detenu was given the list of documents accompanying the grounds of detention on which the detaining authority relied upon for making the impugned order as stated in the grounds of detention to enable the detenu to make an effective representation to the Advisory Board as well as to the detaining authority as mentioned in the grounds of detention, but the detaining authority failed to supply legible copy of the relevant documents to the detenu which is given at page Nos.85, 87, 277, 439, 478, 479 of the documents supplied by the detaining authority to the detenu are illegible and page Nos.11,12,13,15, 17, 235,181, 265, 645, 713, 715, 717, 719, 705, 693 and 695 are in English language and page 213 is the F.I.R. which is Marathi language, which affected the detenu's important right of making an effective representation under Article 22 (5) of the Constitution of India and, therefore, the order of detention is required to be quashed and set aside. He showed a xerox copy of the document supplied at page Nos. 37, 139 and 143 of the compilation. On perusing the documents, it appears that the documents at page 85, 87, 277, 439, 478, 479 of the documents supplied by the detaining authority to the detenu are illegible and page Nos.11,12,13,15, 17, 235,181, 265, 645, 713, 715, 717, 719, 705, 693 and 695 are in English language and page 213 is the F.I.R. which is Marathi language and the said documents are vital documents on which reliance is placed by the detaining authority. The documents at page Nos.85, 87, 277, 439, 478, 479 of the documents supplied by the detaining authority to the detenu are shown to Mr. S.J.Dave and he

fairly admitted that the said documents are not legible. Learned counsel for the petitioner placed reliance on the decision in the case of Pokhrajbhai Sohanbhai Chandel v. District Magistrate, Surat & Ors. 1991 (2) G.L.R. 753.

4. In view of the above position, I am of the opinion that the detaining authority failed to supply legible copy of the said relevant documents to the detenu for making an effective representation which has infringed the detenu's right under Article 22 (5) of the Constitution.

5. In the result, this petition is allowed. The impugned order of detention dated 4-1-2000 passed against the detenu is hereby quashed. The detenu Sureshbhai Virjibhai Patel is ordered to be set at liberty forthwith, if he is not required to be detained in any other case. Rule is made absolute with no order as to costs.

19-6-2000 (R.P.Dholakia, J.)

*mithabhai